

NOTICES OF RULEMAKING DOCKET OPENING

The Administrative Procedure Act (APA) requires the publication of Notices of Rulemaking Docket Opening when an agency opens a rulemaking docket to consider rulemaking. Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process.

NOTICE OF RULEMAKING DOCKET OPENING

INDUSTRIAL COMMISSION OF ARIZONA

Editor's Note: The following Notice of Rulemaking Docket Opening was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 210.)

[R13-15]

- 1. Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 5, Industrial Commission of Arizona
Article and its heading: 1, Workers' Compensation Practice and Procedure
Section numbers: R20-5-165 (The Department may add, delete, or modify additional Sections as necessary.)
- 2. The subject matter of the proposed rule:**
The Industrial Commission of Arizona ("Commission") is charged with the ministerial duty of adopting a maximum average monthly wage to be used in setting the average monthly wage in workers' compensation claims pursuant to A.R.S. § 23-1041(E). A.R.S. § 23-1041(E) was recently revised by the Arizona legislature in 2012. The statute, prior to its amendment, in pertinent part stated: "the commission shall, not later than August 1 of each calendar year, beginning August 1, 2009, adopt an amount that adjusts the amount from the prior year to reflect the annual percentage increase in the Arizona mean wage published by the department of economic security using the bureau of labor statistics occupational employment statistics data coded for all occupations for the prior calendar year." The recent amendment eliminated the aforementioned language and instead causes the statute to read: "the commission, not later than August 1 of each calendar year, beginning August 1, 2009, shall adopt an amount that adjusts the amount from the prior year to reflect the annual percentage increase in the bureau of labor statistics employment cost index for the prior calendar year." The amendment does not identify what employment cost index is to be used. This rulemaking is being initiated to add a new rule, R20-5-165, for the purpose of identifying the specific employment cost index to be used by the Commission in carrying out its statutory duty to annually adopt the maximum average monthly wage used in workers' compensation claims.
- 3. A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 19 A.A.R. 198, February 8, 2013 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Rachel C. Morgan
Industrial Commission of Arizona - Legal Division
Address: 800 W. Washington St.
Phoenix, AZ 85007
Telephone: (602) 542-5781
Fax Number: (602) 542-6783
E-mail: icallegaldivision@ica.state.az.us
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
The Department will accept written comments at the location listed in item #4 until the close of record, at 5:00 p.m. on Tuesday, March 19, 2013. Oral proceedings are scheduled at 9:00 a.m. on March 19, 2013, at the Industrial Commission, 800 W. Washington St., Room 305, Phoenix, AZ 85007.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
See the Notice of Proposed Rulemaking in this issue on page 198.